

What to Do If a Person Dies Leaving French Assets

Following the death of an English national living in France or a person who lives outside of France owning French property, the situation can be complex. Lengthy delays in settling the Estate and increased taxes in the form of penalties and late interest payments are all too common. Appointing a solicitor and Notaire at the outset who have real practical experience of the situation is extremely important. This will avoid unnecessary delays and potentially costly mistakes arising due to a lack of understanding of the position in the other country. In practice, the international elements of the succession which necessarily result from the deceased having interests and assets in more than one country are too often overlooked or misunderstood.

Death in the UK

If the deceased owns a French property but was resident in the UK it will be necessary to inform the Notaire who dealt with the original purchase as soon as possible. Depending on the value of the property, death duties may be payable which will usually have to be paid within a year of the death for deaths occurring outside of France.

The Notaire will in due course require a translated official version of the English death certificate, a copy of the UK Will and Probate (if any), details of any accounts held in France, a valuation of the property and details of any other movable assets such as furniture, cars, etc. He will also require details of the solicitor dealing with the estate in the UK.

Alternatively, a French will may exist to deal with the French property.

The Estate

Contrary to our UK procedures, an executor usually only has a very limited role in France and the beneficiaries of the deceased's estate (please refer to our inheritance brochure) will automatically become the owners of the property immediately following the death.

In France beneficiaries have three options. They can either:

- accept the succession in full with all its assets and liabilities;
- forgo the succession for personal reasons or because the debts outweigh the assets;
- or accept the succession under the benefit of an inventory if they are in any doubt that the liabilities might be superior to the assets.

On the basis of the information provided, the Notaire will draft a *Notoriété*, which is a document by which he/she indicates the date and place of death, whether or not a will exists and the beneficiaries of the estate.

The Notaire will have to draft a certificate of ownership relating to any property owned by the deceased and will finally issue a '*déclaration de succession*' (Tax declaration) to be signed which must be filed with the French tax office and any French inheritance tax (*droits de succession*) paid.

It is particularly important to liaise with a Notaire if the deceased did not leave a separate Will in France and had not dealt with his or her French and English assets separately, as there may be a Will drafted in general terms which could be applicable to the French property. There could also be further difficulties if, for example the deceased left minor children or adults who are incapable of managing their legal affairs where an order of the English Court or a Court of Protection Order may be required to deal with the succession. Advice will also need to be obtained to confirm if the French "legal reserve" provisions giving rights for any children have been respected.

Death in France

The death of a foreigner dying in France while either on vacation or when he or she is living in France permanently has to be registered in the same way as in the UK. A declaration of the death is made at the Mairie of the Commune of residence. The undertaker may suggest providing this service for the family. An official copy of the entry of the death on the Register will be provided which is equivalent to our Death Certificate. The cause of death is not indicated on a French death certificate which can cause difficulties in the UK e.g. for life insurance payments.

If a person dies while domiciled and resident in France then very generally speaking their assets will usually be subject to French law, apart from immovable assets situated abroad. The Notaire who will deal with the French succession will need to be appointed.

Quite often, however, British nationals resident in France still have assets outside France and it will be necessary for the Notaire to liaise with an English Solicitor and any English executor appointed under the Will so as to be in a position to unblock any accounts or investments there might be situated outside of France (and deal with the associated tax issues as relevant).

The situation of an English national dying whilst resident in France does cause particular problems and it is recommended that expert advice be sought at the outset.

For more information please contact:

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